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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/079,449	02/19/2002	Gary W. Ferguson	FET 345	9169

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EXAMINER

DAVIS, DAVID DONALD

ART UNIT PAPER NUMBER

2652

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/079,449		FERGUSON	
	Examiner		Art Unit	
	David D. Davis		2652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3 and 7-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3 and 7-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 7-11, 13, 18, 19 and 21-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Kondo (US 5,538,773). As per claims 1 and 21, Kondo shows in figure 3 a disk data storage media including a disk 21 having first and second disk surfaces and an optical disk edge surface 23. At least one of the first and second disk surfaces is an optical disk surface formed to store a first set of data and the edge surface being formed to store a second set of data. The first set of data can be used independently of the second set of data.

As per claim 3, Kondo describes in column 6, lines 50-54 that the disk edge surface 23 stores data optically. As per claims 7, Kondo describes in column 6, lines 44-54 that the disk edge surface 23 is readable and writable. As per claim 8, Kondo describes in column 6, lines 44-54 that the disk edge surface 23 is read only.

As per claim 9, Kondo shows in figure 3 that the disk edge surface 23 is enlarged. As per claim 10, Kondo shows in figure 3 that the enlarged disk edge surface 23 is formed by increasing the thickness of the disk adjacent the disk edge. As per claims 11 and 13, Kondo shows the enlarged disk edge surface 23 being formed by creating an angled annular surface extending from at least one of the first and second disk surfaces.

As per claim 18, Kondo discloses that the disk edge surface 23 is formed to receive material having a surface to store data. As per claim 19, Kondo describes in column 6, lines 44-

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54 and shows in figure 4 the disk edge surface 23 is formed with a groove to receive a band of material having a surface to store data.

As per claim 22-31, Kondo discloses in column 5, line 55 through column 6, lines 3, a method of storing additional data on disk data storage media in the form of a disk with first and second disk surfaces having at least one data storage surface comprising storing data on the edge surface of the disk. Kondo also discloses the step of forming a data storage surface on the edge surface of the disk including the steps of preparing the edge surface of the disk; and applying a surface for storage of data to the edge surface. Kondo additionally discloses the step of applying a surface includes bonding material with a data storage surface to the edge surface 23.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 12, 14-17 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kondo (US 5,538,773) in view of Birt et al (US 4,277,071). Kondo discloses the claimed invention. See section 5, supra. However, Kondo is silent as angled surfaces that define a generally triangular cross-section having an apex at the edge surface 23 of the disk. Kondo is also silent as to edge surface being at least two layers.

Birt et al shows in figure 3 a triangular cross-section and an edge surface with two layers is notoriously old and well known in the disk art.

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It would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide the disk of Kondo with a generally triangular cross-section as taught by Birt et al. The rationale is as follows: one of ordinary skill in the art at the time the invention was made would have been motivated to provide a generally triangular cross-section, which is well within the purview of a skilled artisan and absent an unobvious result, so as to provide a more aerodynamic disk.

It also would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide the edge of Kondo with at least two layers as taught by Birt et al. The rationale is as follows: one of ordinary skill in the art at the time the invention was made would have been motivated to provide an edge of a disk with two layers, which is well within the purview of a skilled artisan and absent an unobvious result, so as to allow for more data to be stored on the edge of the disk.

Response to Arguments

5. Applicant's arguments filed September 13, 2004 have been fully considered but they are not persuasive. In the paragraph bridging pages 12 and 13, applicant asserts that the information recorded by Kondo needs to be ciphered. Therefore, Kondo does not anticipate the claimed invention. Whether or not the information of Kondo needs to be ciphered is moot because the claimed invention does not require or preclude information to be ciphered.

In the paragraph bridging pages 13 and 14, applicant asserts that because the optical disc of Kondo uses mechanical ridges created by a mechanical pressing operation the claimed invention is not anticipated by Kondo. As with the ciphered information mechanical ridges

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created by a mechanical pressing operation is moot because the claimed invention does not require or preclude mechanical ridges. The claim requires an optical disk edges surface with a different set of data.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David D. Davis whose telephone number is (703) 308-1503. The examiner can normally be reached on Monday thru Friday between 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa T. Nguyen can be reached on (703) 305-9687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David D. Davis
Primary Examiner
Art Unit 2652

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